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At one time a doubt existed as to whether a mistake of the plaintiff's Christian or surname were not a ground of non-suit. 1 *Chitty's Pleading*, 440. In general, however, a misnomer of defendant is only pleadable in abatement, and cannot be taken advantage of in arrest of judgment. *State v. Knowlton*, 70 Me. 200. A misnomer is waived by a failure to plead it or by a default. *Bank v. Jaggers*, 31 Ind. 38. Even the want of a charter, or one with great irregularities, must be pleaded in bar. *Rheem v. Wheel Co.*, 9 Casey, 348. But here, in a suit in *assumpsit* against two, one is arrested and the other returned "not found," and it appears on the trial that defendant who is not brought in is misnamed in the declaration, being called "John" instead of "George," plaintiff will fail on the ground of variance. *Waterbury v. Mather*, 16 Wend. 611. In the case of *Jackson Tp. v. Barnes*, 55 Ind. 136, where a suit was brought against another and different corporation for a debt for which it was not liable a demurrer was sustained. Such cases are, however, exceptional. In some states pleas in abatement have been abolished. *Phillips v. State*, 35 Ark. 384. In New York a misnomer should be set up *quasi* in abatement. *White v. Miller*, 7 Hun (N. Y.) 433.

PROMISSORY NOTE—CERTAINTY—EXCHANGE AND COLLECTION CHARGES.—SMITH V. FIRST STATE BANK OF TYLER, 104 N. W. (MINN.) 369.—*Held*, An instrument in the general form of a promissory note, whereby the maker promises to pay a definite sum, with exchange and collection charges is not a promissory note.

The rule stated above is in direct conflict with the provisions of the negotiable instruments act, sec. 2, 4, 5. Previous to the enactment of this statute, the courts in the various states had been nearly evenly divided on the question of the negotiability of instruments with such stipulations. In respect to exchange, the weight of authority being perhaps against negotiability. *Winsor Sav. Bank v. McMahar*, 38 Fed. 283; *Culbertson v. Nelson*, 93 Iowa 187. And as regards collection charges probably leaning towards the rule as adopted in the act. *Porsey v. Wolff*, 142 Ill. 589; *Appenheimer v. Farmers & Merchants Bank*, 97 Tenn. 19; *National Bank v. Sutton Mfg. Co.* 6 U. S. App. 312. In some states, although such provision is declared void by statute, the negotiability of the instrument is not affected. *Levens v. Briggs*, 21 Ore. 333.

TORTS—IMPUTED NEGLIGENCE—INJURY TO CHILD.—JACKSONVILLE ELECTRIC CO. V. ADAMS, 39 So. 183 (FLA.).—*Held*, that the contributory negligence of parents in permitting a child of four to go, unattended, upon the streets of a city upon which electric cars are operated cannot be imputed to the child in an action by him against the corporation for damages resulting from its negligence.

There is no conflict in individual states, some following the ruling of the case in hand, and others adopting the New York rule which hold that such negligence in parents will prevent child from recovering. Until recently, however, Kansas, Maryland and Wisconsin were not committed to either doctrine. *Chicago v. Wilcox*, 21 L. R. A. 76 Note. Maryland has now adopted the New York rule in *Cumberland v. Lating*, 95 Md. 42. Wisconsin has approved it in *Johnson Adm'r. v. Chicago & Northeastern R. R. Co.*, 49 Wis. 529, and the Kansas court seems to assume that parents' negligence would be a valid defense to action by child. *Smith v. Santa Fe R. R.*, 25 Kan. 739. Indiana, Maine, Massachusetts, and Minnesota also follow New York. The